IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 13078 of 2005

Between:

Chadala Janakirama Rao S/o. Ammaiah,
R/o. Nandigama Village and Mandal,

Krishna District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh,

Panchayat Raj & Rural Development Department,
2 Chief Executive Officer, Zilla Parishad, Krishna,
Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Certiorari to call for the records connected with notice Rc.No.4099/98-M1 dt. 13-6-2005 and quash the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.H.V.R.R.SWAMY

Counsel for the Respondent No.1: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.2: MR PRABHAKAR RAO

The Court at the stage of admission made the following:

ORDER:

The writ petition is filed being aggrieved by the notice dated 13.06.2005 issued by the 2nd respondent, directing the petitioner to remove the illegal structures made by him in violation of lease conditions, within 10 days from the date of receipt of the notice.

The petitioner is a lessee of lands in RS No.471/2, admeasuring Ac.0.80 cents and 471/3 admeasuring Ac.1.62 cents, situated at Nandigama village, which belong to Zilla Parishad, Machilipatnam. Being lessee, the petitioner unauthorizedly and in violation of terms and conditions of the lease, made some structures, and as on today the petitioner is not holding any lease, and therefore, he was asked to remove those illegal structures. The petitioner, instead of giving his explanation to the impugned notice, straight away approached this Court with this writ petition.

Heard the learned counsel appearing for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development.

The learned counsel for the petitioner contended that the petitioner had earlier filed a writ petition in W.P.9309 of 2004 and obtained interim stay of all further proceedings including auction notice dated 14.05.2004 vide its order dated 25.05.2004 passed in W.P.M.P.No.11946 of 2004 and hence the respondents are prevented to issue the impugned notice.

The W.P.No.9309 of 2004 was filed against the auction notice dated 14.05.2004.

The interim order passed in that writ petition does not preclude the respondents to issue the present impugned notice, asking petitioner to remove the unauthorized structures, as the interim stay obtained in the above writ petition is only stay of all further proceedings in the auction notice dated 14.05.2004. Therefore, the petitioner cannot seek any relief without submitting his explanation to the impugned notice.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, with a direction to the petitioner to submit his explanation to the impugned notice, within a period of two weeks from the date of receipt of a copy of this order, and on filing such explanation, it is for the respondents to consider and pass appropriate orders thereon, in accordance with law, rules and regulations.

With the above observations, the Writ Petition is disposed of. No order as to costs.

Dated: 20.06.2005

Dsr

Note:

Issue CC in two days

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Secretary,

Government of Andhra Pradesh,

Panchayat Raj & Rural Development,

Secretariat, Hyderabad

2. The Chief Executive Officer,

Zilla Parishad,

Krishna Chilakalapudi,

Machilipatnam,

Krishna District

3. Two CCs to the Government Pleader

for Panchayat Raj and Rural Develolment,

High Court Buildings, Hyderabad

4. Two CD copies